

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

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In re:

Chapter 11

GMAC Mortgage, LLC,

Case No.: 12-12020-mg
Jointly Administered

Debtor(s)

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NOTICE OF MOTION FOR RELIEF FROM STAY

THIRD FEDERAL SAVINGS AND LOAN ASSOCIATION, has filed papers with the court to seek relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant relief from the automatic stay to THIRD FEDERAL SAVINGS AND LOAN ASSOCIATION, or if you want the court to consider your views on the motion, then on or before August 22, 2012, you or your attorney must:

File with the court a written response, explaining your position at:

Court Clerk
U.S. Bankruptcy Court
One Bowling Green
New York, NY

If you mail your response to the court for filing, you must mail it early enough so that the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Anthony Princi, Counsel for Debtor
Gary S. Lee, Counsel for Debtor
Larren M. Nashelsky, Counsel for Debtor
Morrison & Foerster, LLP
1290 Avenue of the Americas
New York, NY 10104

Steven J. Reisman, Counsel for Debtor
Curtis, Mallet-Prevost, Colt & Mosle, LLP
101 Park Avenue
New York, NY 10178

U.S. Trustee
33 Whitehall Street, 21st Floor
New York, NY 10004

Kurtzman Carson Consultants
Claims and Noticing Agent
2335 Alaska Ave.
El Segundo, CA 90245

Steven S. Sparling, Counsel for Official Committee of Unsecured Creditors
Kramer, Levin, Naftalis & Frankel, LLP
919 Third Avenue
New York, NY 100022

Adam T. Dusek
3355 Sunhaven Oval
Parma, OH 44134-5836

Jennifer L. Kall
3355 Sunhaven Oval
Parma, OH 44134-5836

Top 50 Creditors – See Attached Mailing Matrix

Attend the hearing scheduled to be held on August 29, 2012, at 10:00 a.m., at the Bankruptcy Court, One Bowling Green, Courtroom 501, New York, NY 10004-1408.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9006-1, Local Rules of Bankruptcy Practice for the Southern District of New York, answering papers and memoranda of law, if any, must be filed with the Court and served upon the undersigned so as to be received by the undersigned no later than seven (7) days before the return date of this motion.

Date: July 25, 2012

/s/ Geoffrey J. Peters
Geoffrey J. Peters, Esq. (#GP4633)
WELTMAN, WEINBERG & REIS CO., LPA
175 S. 3RD Street, Suite 900
Columbus, OH 43215
(614) 857-4324

WWR #9685086

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

-----X

In re:

Chapter 11

GMAC Mortgage, LLC,

Case No. 12-12020-mg

Jointly Administered

AFFIRMATION IN SUPPORT

OF MOTION FOR RELIEF

FROM THE STAY

Debtor(s)

-----X

GEOFFREY J. PETERS, ESQ., an attorney at law duly admitted to practice before the Courts of the State of New York and the Southern District of New York, under the penalties of perjury, duly affirms as follows:

1. I am a partner in the law firm of Weltman, Weinberg & Reis Co., L.P.A., attorneys for THIRD FEDERAL SAVINGS AND LOAN ASSOCIATION ("Third Federal Savings & Loan"), a secured creditor herein. I am familiar with the facts and circumstances of this matter based upon the information in our file and the attached affidavit of a representative of Movant herein.

2. Jurisdiction is conferred on this Court by the provisions of 28 U.S.C. §1334. This is a core proceeding within the meaning of 28 U.S.C. §157(b).

3. This application is brought pursuant to Rules 4001(a) and 9014 of the Federal Bankruptcy Rules of Procedure ("the Rules") and §§362(d)(1) and 362(d)(2) of the United States Bankruptcy Code ("the Code") for an Order, terminating, annulling or modifying the stay imposed under §362(a) of the Code.

4. The Debtor(s) herein filed bankruptcy under Chapter 11 of the Bankruptcy Code on May 14, 2012.

5. Movant, Third Federal Savings and Loan, has a pending foreclosure in state court, being case number CV-12-774854. Third Federal Savings & Loan is plaintiff and the defendants are Adam T. Dusek and Jennifer L. Kall. Debtor, GMAC Mortgage, LLC is a defendant as they allegedly hold a mortgage on

individuals' property. Movant requests relief from stay against GMAC Mortgage, LLC in order to proceed with foreclosure. A copy of the Complaint is attached hereto as Exhibit "A".

6. Movant is the holder of a Promissory Note ("Agreement") with Adam T. Dusek and Jennifer L. Kall with respect to REAL PROPERTY LOCATED AT 3355 SUNHAVEN OVAL, PARMA, OH 44134-5836 ("Collateral"). A copy of the Real Estate Mortgage Note and Open-End Mortgage Deed and Security Agreement evidencing perfection is attached hereto as Exhibits "B" and "C".

7. Adam T. Dusek and Jennifer L. Kall are obligated to pay to Third Federal Savings & Loan monthly payments in the sum of \$716.06 per month for a period of three hundred and sixty (360) months under the Agreement dated November 16, 1998, by and between THIRD FEDERAL SAVINGS AND LOAN ASSOCIATION and Debtor.

11 USC §362(d)(1)

8. Section 362(d)(1) of the Code provides that the Court shall modify the automatic stay for cause including lack of adequate protection.

9. According to the books and records of Third Federal Savings & Loan, and Adam T. Dusek and Jennifer L. Kall are in arrears for the payments that became due contractually on September 1, 2011, and all subsequent payments. Therefore as of May 31, 2012 the contractual arrears will total at least \$5,928.03, plus late fees, attorney fees and related costs. As such, Third Federal Savings & Loan is not adequately protected. Attached as Exhibit "D" is the affidavit of Third Federal Savings and Loan.

10. Accordingly, it is submitted that sufficient cause has been demonstrated to vacate the stay pursuant to 11 U.S.C. §362(d)(1).

Additional Relief

11. No prior application for the relief requested herein has been made.

WHEREFORE, based on the foregoing and under §362(d) of the Code, Third Federal Savings & Loan respectfully requests that this Court enter an Order terminating, annulling or modifying the automatic stay under §362 to the extent necessary to permit Third Federal Savings & Loan to promptly

repossess and sell the Collateral and continue with state court foreclosure, and for such other and further relief as is just and proper under the circumstances.

Dated: Columbus, Ohio
July 25, 2012

/s/ Geoffrey J. Peters

GEOFFREY J. PETERS, ESQ.

STATE OF OHIO)
COUNTY OF FRANKLIN) ss.:

Danise Spencer, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at Columbus, Ohio.

On July 25, 2012 deponent served the within

**MOTION FOR RELIEF FROM STAY, AFFIRMATION IN SUPPORT OF MOTION FOR
RELIEF FROM THE AUTOMATIC STAY WITH ATTACHED EXHIBITS
AND PROPOSED ORDER**

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of Ohio:

Anthony Princi, Counsel for Debtor
Gary S. Lee, Counsel for Debtor
Larren M. Nashelsky, Counsel for Debtor
Morrison & Foerster, LLP
1290 Avenue of the Americas
New York, NY 10104

Steven J. Reisman, Counsel for Debtor
Curtis, Mallet-Prevost, Colt & Mosle, LLP
101 Park Avenue
New York, NY 10178

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Steven S. Sparling, Counsel for Official Committee of Unsecured Creditors
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3355 Sunhaven Oval
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Jennifer L. Kall
3355 Sunhaven Oval
Parma, OH 44134-5836

Top 50 Creditors – See Attached Mailing Matrix

/s/Danise Spencer
DANISE SPENCER

Sworn to before me this
July 25, 2012
/s/ Annette Rains
Notary Public
Annette Rains
Notary Public, State of Ohio
No. 26482
Qualified in Franklin County
Commission Expires 05/27/17